

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

HENRY J. DURHAM,

Plaintiff,

-against-

9:17-CV-0434 (LEK/DJS)

HASSAN JONES, *et al.*,

Defendants.

ORDER

I. INTRODUCTION

This matter comes before the Court following a Report-Recommendation filed on January 23, 2019, by the Honorable Daniel J. Stewart, U.S. Magistrate Judge, pursuant to 28 U.S.C. § 636(b) and Local Rule 72.3. Dkt. No. 30 (“Report-Recommendation”).

II. LEGAL STANDARD

Within fourteen days after a party has been served with a copy of a magistrate judge’s report-recommendation, the party “may serve and file specific, written objections to the proposed findings and recommendations.” Fed. R. Civ. P. 72(b); L.R. 72.1(c). A court “shall make a de novo determination of those portions of the report or specified proposed findings or recommendations to which objection is made.” *Id.* Otherwise, if no objections are made, or if an objection is general, conclusory, perfunctory, or a mere reiteration of an argument made to the magistrate judge, a district court need review that aspect of a report-recommendation only for clear error. *Barnes v. Prack*, No. 11-CV-857, 2013 WL 1121353, at *1 (N.D.N.Y. Mar. 18, 2013); *Farid v. Bouey*, 554 F. Supp. 2d 301, 306–07, 306 n.2 (N.D.N.Y. 2008), abrogated on other grounds by *Widomski v. State Univ. of N.Y. at Orange*, 748 F.3d 471 (2d Cir.

2014); see also *Machicote v. Ercole*, No. 06-CV-13320, 2011 WL 3809920, at *2 (S.D.N.Y. Aug. 25, 2011) (“[E]ven a *pro se* party’s objections to a Report and Recommendation must be specific and clearly aimed at particular findings in the magistrate’s proposal, such that no party be allowed a second bite at the apple by simply relitigating a prior argument.”). “A [district] judge . . . may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge.” § 636(b).

III. DISCUSSION

No objections were filed in the allotted time period. Docket. Thus, the Court has reviewed the Report-Recommendation for clear error and has found none.

IV. CONCLUSION

Accordingly, it is hereby:

ORDERED, that the Report-Recommendation (Dkt. No. 30) is **APPROVED and ADOPTED in its entirety**; and it is further

ORDERED, that Defendants’ motion for summary judgment (Dkt. No. 26) is **GRANTED in part and DENIED in part**; and it is further

ORDERED, that Plaintiff’s medical indifference claim is **DISMISSED**; and it is further

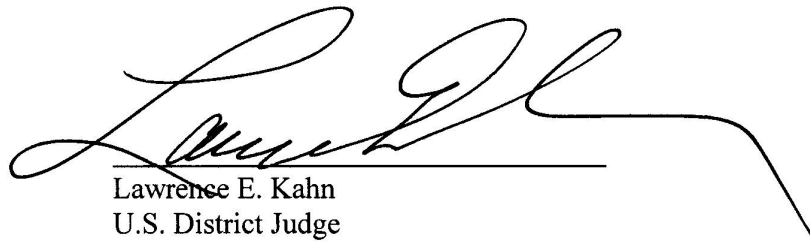
ORDERED, that the Clerk remove defendants Amy Brothers and Maria Ocampo from this action; and it is further

ORDERED, that Plaintiff’s excessive force claims against defendants Hassan Jones, Michael Wright, Mr. Velasquez, and Paul Calogero **SURVIVE** Defendant’s motion; and it is further

ORDERED, that the Clerk of the Court serve a copy of this Order on the parties in accordance with the Local Rules.

IT IS SO ORDERED.

DATED: March 08, 2019
 Albany, New York

A handwritten signature in black ink, appearing to read "Lawrence E. Kahn", is written over a horizontal line. The signature is stylized with large loops and a long horizontal stroke extending to the right.

Lawrence E. Kahn
U.S. District Judge